



House of Representatives

General Assembly

File No. 99

January Session, 2011

Substitute House Bill No. 6273

House of Representatives, March 21, 2011

The Committee on Government Administration and Elections reported through REP. MORIN of the 28th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE OFFICE OF STATE ETHICS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 1-80 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

3 (a) There shall be an Office of State Ethics that shall be an
4 independent state agency and shall constitute a successor agency to the
5 State Ethics Commission, in accordance with the provisions of sections
6 4-38d and 4-39. Said office shall consist of an executive director,
7 general counsel, ethics enforcement officer and such other staff as
8 hired by the executive director. Within the Office of State Ethics, there
9 shall be the Citizen's Ethics Advisory Board that shall consist of nine
10 members, appointed as follows: One member shall be appointed by the
11 speaker of the House of Representatives, one member by the president
12 pro tempore of the Senate, one member by the majority leader of the
13 Senate, one member by the minority leader of the Senate, one member
14 by the majority leader of the House of Representatives, one member by

15 the minority leader of the House of Representatives, and three
16 members by the Governor. Members of the board [shall serve for four-
17 year terms which shall commence on October 1, 2005, except that
18 members] first appointed for a term commencing on October 1, 2005,
19 shall have the following terms: The Governor shall appoint two
20 members for a term of three years and one member for a term of four
21 years; the majority leader of the House of Representatives, minority
22 leader of the House of Representatives and the speaker of the House of
23 Representatives shall each appoint one member for a term of two
24 years; and the president pro tempore of the Senate, the majority leader
25 of the Senate and the minority leader of the Senate shall each appoint
26 one member for a term of four years. The term commencing October 1,
27 2009, for the member appointed by the Governor and the member
28 appointed by the president pro tempore of the Senate, shall be five
29 years. Upon the expiration of such members' five-year terms, such
30 members may not be reappointed. Thereafter, members shall serve for
31 terms of four years. No individual shall be appointed to more than one
32 four-year term as a member of the board, [, provided, members]
33 Members may not continue in office once their term has expired and
34 members first appointed may not be reappointed, provided they may
35 continue to adjudicate at a hearing under subsection (b) of section 1-82
36 that commenced during such member's term of office. No more than
37 five members shall be members of the same political party. The
38 members appointed by the majority leader of the Senate and the
39 majority leader of the House of Representatives shall be selected from
40 a list of nominees proposed by a citizen group having an interest in
41 ethical government. The majority leader of the Senate and the majority
42 leader of the House of Representatives shall each determine the citizen
43 group from which each will accept such nominations. One member
44 appointed by the Governor shall be selected from a list of nominees
45 proposed by a citizen group having an interest in ethical government.
46 The Governor shall determine the citizen group from which the
47 Governor will accept such nominations.

48 (b) All members shall be electors of the state. No member shall be a
49 state employee. No member or employee of [such] said board shall (1)

50 hold or campaign for any public office; (2) have held public office or
51 have been a candidate for public office for a three-year period prior to
52 appointment; (3) hold office in any political party or political
53 committee or be a member of any organization or association
54 organized primarily for the purpose of influencing legislation or
55 decisions of public agencies; or (4) be an individual who is a registrant
56 as defined in [subsection (q) of] section 1-91. For purposes of this
57 subsection, "public office" does not include the offices of justice of the
58 peace or notary public.

59 (c) Any vacancy on the board shall be filled by the appointing
60 authority having the power to make the original appointment. An
61 individual selected by the appointing authority to fill a vacancy shall
62 be eligible for appointment to one full four-year term thereafter. Any
63 vacancy occurring on the board shall be filled within thirty days.

64 (d) The board shall elect a chairperson who shall, except as
65 provided in subsection (b) of section 1-82 and subsection (b) of section
66 1-93, preside at meetings of the board and a vice-chairperson to
67 preside in the absence of the chairperson. Six members of the board
68 shall constitute a quorum. Except as provided in subdivision (3) of
69 subsection (a) of section 1-81, subsections (a) and (b) of section 1-82,
70 subsection (b) of section 1-88, subdivision (5) of section 1-92,
71 subsections (a) and (b) of section 1-93 and subsection (b) of section 1-
72 99, a majority vote of the members shall be required for action of the
73 board. The chairperson or any three members may call a meeting.

74 (e) Any matter before the board, except hearings held pursuant to
75 the provisions of subsection (b) of section 1-82 or subsection (b) of
76 section 1-93, may be assigned by the board to two of its members to
77 conduct an investigation or hearing, as the case may be, to ascertain
78 the facts and report thereon to the board with a recommendation for
79 action.

80 (f) Members of the board shall be compensated at the rate of two
81 hundred dollars per day for each day they attend a meeting or hearing
82 and shall receive reimbursement for their necessary expenses incurred

83 in the discharge of their official duties.

84 (g) The board shall not be construed to be a board or commission
85 within the meaning of section 4-9a.

86 (h) The members and employees of the Citizen's Ethics Advisory
87 Board and the Office of State Ethics shall adhere to the following code
88 of ethics under which the members and employees shall: (1) Observe
89 high standards of conduct so that the integrity and independence of
90 the Citizen's Ethics Advisory Board and the Office of State Ethics may
91 be preserved; (2) respect and comply with the law and conduct
92 themselves at all times in a manner which promotes public confidence
93 in the integrity and impartiality of the board and the Office of State
94 Ethics; (3) be faithful to the law and maintain professional competence
95 in the law; (4) be unswayed by partisan interests, public clamor or fear
96 of criticism; (5) maintain order and decorum in proceedings of the
97 board and Office of State Ethics; (6) be patient, dignified and courteous
98 to all persons who appear in board or Office of State Ethics
99 proceedings and with other persons with whom the members and
100 employees deal in their official capacities; (7) refrain from making any
101 statement outside of a board or Office of State Ethics proceeding,
102 which would have a likelihood of prejudicing a board or Office of State
103 Ethics proceeding; (8) refrain from making any statement outside of a
104 board or Office of State Ethics proceeding that a reasonable person
105 would expect to be disseminated by means of public communication if
106 the member or employee should know that such statement would
107 have a likelihood of materially prejudicing or embarrassing a
108 complainant or a respondent; (9) preserve confidences of complainants
109 and respondents; (10) exercise independent professional judgment on
110 behalf of the board and Office of State Ethics; and (11) represent the
111 board and Office of State Ethics competently.

112 (i) No member or employee of the board or Office of State Ethics
113 may (1) make a contribution, as defined in section 9-601a, to any
114 [person] public official, state employee or candidate for public office
115 subject to the provisions of this part; or (2) participate in the political

116 campaign of any candidate for public office subject to the provisions of
117 this part by (A) publicly endorsing or opposing a candidate on behalf
118 of the political campaign of a candidate for public office; (B)
119 organizing, selling tickets to, promoting or actively participating in a
120 fund-raising activity of a candidate, a political party or a political
121 committee; (C) directly or indirectly soliciting, receiving, collecting,
122 handling, disbursing or accounting for contributions or other funds for
123 the political campaign of any candidate for public office; (D) soliciting
124 votes in support of or in opposition to a candidate on behalf of the
125 political campaign of any candidate for public office; and (E) providing
126 any other compensated or uncompensated services for the political
127 campaign of any candidate for public office.

128 (j) Members of the board shall recuse themselves from participating
129 in any proceeding or matter undertaken pursuant to this chapter that
130 involves the person who appointed such member to the board.

131 (k) No former member of the board may represent any business or
132 person, other than himself or herself, before the board for a period of
133 one year following the end of such former member's service on the
134 board. No business or person that appears before the board shall
135 employ or otherwise engage the services of a former member of the
136 board for a period of one year following the end of such former
137 member's service on the board.

138 (l) No member of the board may hold any other position in state
139 employment for a period of one year following the end of such
140 member's service on the board, including, but not limited to, service as
141 a member on a state board or commission, service as a judge of the
142 Superior Court or service as a state agency commissioner.

143 (m) Upon request of any aggrieved party, the board shall delay the
144 effect of any decision rendered by the board for a period not to exceed
145 more than seven days following the rendering of such decision.

146 (n) Each person appointed to the board shall sign a certification
147 indicating that such person is aware of the provisions contained in

148 subsections (b) and (h) to (l), inclusive, of this section. Each such
 149 person shall file such certification with the Office of State Ethics prior
 150 to taking the oath of office as a member of the board.

151 Sec. 2. Subsection (q) of section 1-84 of the general statutes is
 152 repealed and the following is substituted in lieu thereof (*Effective*
 153 *October 1, 2011*):

154 (q) No public official or state employee shall knowingly counsel,
 155 authorize or otherwise sanction action that violates any provision of
 156 this part.

157 Sec. 3. Subsection (c) of section 1-101nn of the general statutes is
 158 repealed and the following is substituted in lieu thereof (*Effective*
 159 *October 1, 2011*):

160 (c) Any person who [violates] is found in violation of any provision
 161 of this section by the Office of State Ethics pursuant to section 1-82 may
 162 be deemed a nonresponsible bidder by a state agency, board,
 163 commission or institution or quasi-public agency.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	1-80
Sec. 2	<i>October 1, 2011</i>	1-84(q)
Sec. 3	<i>October 1, 2011</i>	1-101nn(c)

Statement of Legislative Commissioners:

In the fourth sentence in section 1(a), "Each member" was changed to "members" for internal consistency.

GAE *Joint Favorable Subst.-LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which makes minor changes to the Citizens Ethics Advisory Board and prohibits Office of State Ethics employees from participating in political campaigns, does not result in a fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 6273*****AN ACT CONCERNING THE OFFICE OF STATE ETHICS.*****SUMMARY:**

This bill makes changes to Citizens Ethics Advisory Board (CEAB) members' terms of office and allows people who sought or held positions as justices of the peace and notaries public to serve on the board. It narrows the restriction on political contributions by board members and Office of State Ethics (OSE) employees but prohibits them from otherwise participating in the political campaign of a candidate for state public office. It requires board members to certify in writing that they are aware of (1) the qualifications for board members and (2) provisions in the State Code of Ethics for board members.

The bill also requires specific intent before a public official or state employee may be found in violation of the Code of Ethics for counseling, authorizing, or otherwise sanctioning actions that the code prohibits. Lastly, it accords contractors, potential contractors, and consultants due process before they are prohibited from bidding on state contracts because of alleged past unethical bidding practices.

EFFECTIVE DATE: October 1, 2011

CITIZENS ETHICS ADVISORY BOARD

The bill re-staggers board members' terms of office in order to prevent more than three terms from expiring in a single year. By law, each board member is appointed to one four-year term. Under current law, once every four years, four members' terms expire. Under the bill, two members appointed to terms that began on October 1, 2009 will serve one five-year term, and subsequent appointments to those positions are for four years. The result of this re-staggering is that, in any four-year period, the board will have three years with two

vacancies to fill and one year with three vacancies to fill. The bill also allows board members to continue serving past the end of their terms to finish adjudicating a case.

The bill allows people who sought or held positions as justices of the peace and notaries public to serve on the board by excluding these offices from the Code of Ethics' definition of "public office." By law, board members and OSE employees may not (1) hold or campaign for public office or have held or campaigned for public office in the three years prior to appointment; (2) hold office in a political party or committee; or (3) be a registered lobbyist or member of a lobbying organization.

POLITICAL CAMPAIGN PARTICIPATION

Current law prohibits CEAB members and OSE employees from making political contributions to any person whom the State Code of Ethics covers. Under the code, "person" means an individual, sole proprietorship, trust, corporation, limited liability company, union, association, firm, partnership, club, or other organization or group of persons (CGS § 1-79 (i)). The bill narrows the restriction on political contributions by CEAB members and OSE employees to include only public officials, state employees, and candidates for public office whom the code covers.

The bill also prohibits CEAB members and OSE employees from otherwise participating in the political campaign of a candidate for a public office that is subject to the State Code of Ethics. Under the bill, participation in a political campaign includes:

1. publicly endorsing or opposing a candidate;
2. organizing, selling tickets to, promoting or actively participating in a fundraising affair for a candidate, political party, or political committee;
3. directly or indirectly soliciting, receiving, collecting, handling, disbursing, or accounting for contributions or other funds for a

political campaign or a candidate for public office;

4. soliciting votes in support of or in opposition to a candidate on behalf of a political campaign or a candidate for public office; and
5. providing any other compensated or uncompensated services for the political campaign of any candidate for public office.

ETHICS CODE VIOLATIONS

Specific Intent Required

The bill requires an intentional act before a public official or state employee may be found in violation of the Code of Ethics for counseling, authorizing, or otherwise sanctioning actions that the code prohibits. It accomplishes this by specifying that a violation occurs only when these officials or employees act “knowingly.” By law, people who intentionally violate the code are guilty of a class A misdemeanor, punishable by up to one year in prison, a fine of up to \$2,000, or both, for a first violation (or a class D felony if the violator derived a financial benefit of at least \$1,000 from the violation) and a class D felony for two or more violations. A class D felony is punishable by up to five years in prison, a fine of up to \$5,000, or both.

Due Process for Contractors and Consultants

The bill requires OSE to find a violation of the State Code of Ethics before contractors or consultants may be deemed nonresponsible bidders. This means OSE must investigate complaints of wrongdoing, offer respondents the opportunity for a hearing, and make a decision based on the evidence.

By law, state agencies, boards, commissions, institutions, and quasi-public agencies may treat as nonresponsible bidders (and thus ineligible to win a state contract) prequalified contractors, large state construction or procurement contractors, consultants on state contracts, and people seeking those positions if they:

1. solicit from public officials or state employees information that

is not available to other bidders in order to gain a competitive advantage;

2. intentionally, willfully, or recklessly defraud the state by charging an agency, board, commission, institution, or quasi-public agency for work not performed or goods not provided;
3. intentionally or willfully violate or circumvent competitive bidding and ethics laws; or
4. provide or direct someone else to provide information or donated goods and services to a state or quasi-public agency, its procurement staff, or a member of a bid selection committee with intent to unduly influence the award of a state contract.

The law also allows state agencies, boards, commissions, institutions, and quasi-public agencies to treat consultants as nonresponsible bidders if they help negotiate a state contract and then they or the businesses with which they are associated serve as contractors, subcontractors, or consultants on the project, or as consultants to anyone seeking the contract.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable

Yea 15 Nay 0 (03/07/2011)